

- (6) The number of rounds during which bids may be submitted, e.g., one or more, and procedures for ending the bidding;
- (7) Measurements of bidding activity in the aggregate or by individual applicants, together with requirements for minimum levels of bidding activity;
- (8) Acceptable bid amounts at the opening of and over the course of bidding;
- (9) Consistent with the public interest objectives of the competitive bidding, the process for reviewing bids and determining the winning bidders and the amount(s) of universal service support that each winning bidder may apply for, pursuant to applicable post-auction procedures;
- (10) Procedures, if any, by which bidders may withdraw bids; and
- (11) Procedures by which bidding may be delayed, suspended, or canceled before or after bidding begins for any reason that affects the fair and efficient conduct of the bidding, including natural disasters, technical failures, administrative necessity, or any other reason.

(c) Apportioning Package Bids. If the public notice establishing detailed competitive bidding procedures adopts procedures for bidding for support on combinations or packages of geographic areas, the public notice also shall establish a methodology for apportioning such bids among the geographic areas within the combination or package for purposes of implementing any Commission rule or procedure that requires a discrete bid for support in relation to a specific geographic area.

(d) Public Notice of Competitive Bidding Results. After the conclusion of competitive bidding, a public notice shall identify the winning bidders that may apply for the offered universal service support and the amount(s) of support for which they may apply, and shall detail the application procedures.

§ 1.21004 Winning Bidder's Obligation To Apply for Support

(a) Timely and Sufficient Application. A winning bidder has a binding obligation to apply for support by the applicable deadline. A winning bidder that fails to file an application by the applicable deadline or that for any reason is not subsequently authorized to receive support has defaulted on its bid.

(b) Liability for Default Payment. A winning bidder that defaults is liable for a default payment, which will be calculated by a method that will be established as provided in a public notice prior to competitive bidding. If the default payment is determined as a percentage of the defaulted bid amount, the default payment will not exceed twenty percent of the amount of the defaulted bid amount.

(c) Additional Liabilities. A winning bidder that defaults, in addition to being liable for a default payment, shall be subject to such measures as the Commission may provide, including

but not limited to disqualification from future competitive bidding pursuant to this subpart AA, competitive bidding for universal service support.

PART 20-Commercial Mobile Radio Services

6. The authority citation for Part 20 continues to read as follows:

Authority: 47 U.S.C. 154, 160, 201, 251–254, 301, 303, 316, and 332 unless otherwise noted. Section 20.12 is also issued under 47 U.S.C. 1302.

7. Section 20.11 is amended by revising paragraph (b) to read as follows:

§20.11 Interconnection to facilities of local exchange carriers.

* * * * *

(b) Local exchange carriers and commercial mobile radio service providers shall exchange Non-Access Telecommunications Traffic, as defined in § 51.701 of this chapter, under a bill-and-keep arrangement, as defined in § 51.713 of this chapter, unless they mutually agree otherwise.

* * * * *

PART 36—JURISDICTIONAL SEPARATIONS PROCEDURES; STANDARD PROCEDURES FOR SEPARATING TELECOMMUNICATIONS PROPERTY COSTS, REVENUES, EXPENSES, TAXES AND RESERVES FOR TELECOMMUNICATIONS COMPANIES

8. The authority citation for part 36 is revised to read as follows:

Authority: 47 U.S.C. 151, 154(i) and (j), 205, 221(c), 254, 303(r), 403, 410, and 1302 unless otherwise noted.

Subpart A—General

9. Add § 36.4 to subpart A to read as follows:

§ 36.4 Streamlining procedures for processing petitions for waiver of study area boundaries.

Effective January 1, 2012, local exchange carriers seeking a change in study area boundaries shall be subject to the following procedure:

(a) Public Notice and Review Period. Upon determination by the Wireline Competition Bureau that a petitioner has filed a complete petition for study area waiver and that the petition is appropriate for streamlined treatment, the Wireline Competition Bureau will issue a public notice seeking comment on the petition. Unless otherwise notified by the Wireline Competition Bureau, the petitioner is permitted to alter its study area boundaries on the 60th day after the

reply comment due date, but only in accordance with the boundary changes proposed in its application.

(b) Comment Cycle. Comments on petitions for waiver may be filed during the first 30 days following public notice, and reply comments may be filed during the first 45 days following public notice, unless the public notice specifies a different pleading cycle. All comments on petitions for waiver shall be filed electronically, and shall satisfy such other filing requirements as may be specified in the public notice.

10. Revise subpart F heading to read as follows:

Subpart F—High-Cost Loop Support

11. Amend § 36.601 by adding the following two sentences at the end of paragraph (a) and removing paragraph (c) to read as follows:

§ 36.601 General

(a) ***Effective January 1, 2012, this subpart will only apply to incumbent local exchange carriers that are rate-of-return carriers not affiliated, as “affiliated companies” are defined in § 32.9000 of this chapter, with price cap local exchange carriers. Rate-of-return carriers and price cap local exchange carriers are defined pursuant to § 54.5 and § 61.3(aa) of this chapter, respectively.

§ 36.602 [Removed]

12. Section 36.602 is removed.

13. Section 36.603 is amended by revising the section heading, and paragraph (a) to read as follows:

§ 36.603 Calculation of incumbent local exchange carrier portion of nationwide loop cost expense adjustment for rate-of-return carriers.

(a) Beginning January 1, 2003, the annual amount of the rural incumbent local exchange carrier portion of the nationwide loop cost expense adjustment calculated pursuant to this subpart F shall not exceed the amount of the total rural incumbent local exchange carrier loop cost expense adjustment for the immediately preceding calendar year, multiplied times one plus the Rural Growth Factor calculated pursuant to §36.604. Beginning January 1, 2012, the total annual amount of the incumbent local exchange carrier portion of the nationwide loop cost expense adjustment shall not exceed the expense adjustment calculated for rate-of-return regulated carriers pursuant to this paragraph. Beginning January 1, 2012, rate-of-return local exchange carriers shall not include rate-of-return carriers affiliated with price cap local exchange carriers as set forth in § 36.601(a) of this subpart. Beginning January 1, 2013, and each calendar year thereafter, the total annual amount of the incumbent local exchange carrier portion of the nationwide loop cost expense adjustment shall not exceed the amount for the immediately

preceding calendar year, multiplied times one plus the Rural Growth Factor calculated pursuant to § 36.604.

14. Revise § 36.604 to read as follows:

§ 36.604 Calculation of the rural growth factor.

(a) Until July 30, 2012, the Rural Growth Factor (RGF) is equal to the sum of the annual percentage change in the United States Department of Commerce's Gross Domestic Product—Chained Price Index (GPD-CPI) plus the percentage change in the total number of rural incumbent local exchange carrier working loops during the calendar year preceding the July 31st filing submitted pursuant to § 36.611. The percentage change in total rural incumbent local exchange carrier working loops shall be based upon the difference between the total number of rural incumbent local exchange carrier working loops on December 31 of the calendar year preceding the July 31st filing and the total number of rural incumbent local exchange carrier working loops on December 31 of the second calendar year preceding that filing, both determined by the company's submissions pursuant to §36.611. Loops acquired by rural incumbent local exchange carriers shall not be included in the RGF calculation.

(b) Effective July 31, 2012, pursuant to §36.601(a) of this subpart, the calculation of the Rural Growth Factor shall not include price cap carrier working loops and rate-of-return local exchange carrier working loops of companies that were affiliated with price cap carriers during the calendar year preceding the July 31st filing submitted pursuant to § 36.611.

15. Amend §36.605 by revising paragraphs (a), (b) and (c) and (c)(1) as follows:

§ 36.605 Calculation of safety net additive.

(a) "Safety net additive support." Beginning January 1, 2012, only those local exchange carriers that qualified in 2010 or earlier, based on 2009 or prior year costs, shall be eligible to receive safety net additive pursuant to paragraph (c) of this section. Local exchange carriers shall not receive safety net additive for growth of Telecommunications Plant in Service in 2011, as compared to 2010. A local exchange carrier qualifying for safety net additive shall no longer receive safety net additive after January 1, 2012 unless the carrier's realized total growth in Telecommunications Plant in Service was more than 14 percent during the qualifying period, defined as 2010 or earlier, pursuant to paragraph (c) of this section. A local exchange carrier qualifying for safety net additive that fails to meet the requirements set forth in the preceding sentence will receive 50 percent of the safety net additive that it otherwise would have received pursuant to this rule in 2012 and will cease to receive safety net additive in 2013 and thereafter.

(b) Calculation of safety net additive support for companies that qualified prior to 2011: Safety net additive support is equal to the amount of capped support calculated pursuant to this subpart F in the qualifying year minus the amount of support in the year prior to qualifying for support subtracted from the difference between the uncapped expense adjustment for the study area in the qualifying year minus the uncapped expense adjustment in the year prior to qualifying for support as shown in the following equation: Safety net additive support = (Uncapped support in

the qualifying year – Uncapped support in the base year) – (Capped support in the qualifying year – Amount of support received in the base year).

(c) Operation of safety net additive support for companies that qualified prior to 2011: (1) In any year in which the total carrier loop cost expense adjustment is limited by the provisions of § 36.603 a rate-of-return incumbent local exchange carrier, as set forth in §36.601(a) of this subpart, shall receive safety net additive support as calculated in paragraph (b) of this section, if in any study area, the rural incumbent local exchange carrier realizes growth in end of period Telecommunications Plant in Service (TPIS), as prescribed in § 32.2001 of this chapter, on a per loop basis, of at least 14 percent more than the study area's TPIS per loop investment at the end of the prior period.

16. Amend § 36.611 by revising the first sentence of paragraph (h) to read as follows:

§ 36.611 Submission of information to the National Exchange Carrier Association (NECA).

(h) For incumbent local exchange carriers subject to § 36.601(a) this subpart, the number of working loops for each study area. ***

17. Amend §36.612 by revising the first sentence of paragraph (a) to read as follows:

§ 36.612 Updating information submitted to the National Exchange Carrier Association.

(a) Any incumbent local exchange carrier subject to §36.601(a) of this subpart may update the information submitted to the National Exchange Carrier Association (NECA) on July 31st pursuant to §36.611 one or more times annually on a rolling year basis according to the schedule.

18. Amend §36.621 by revising paragraph (a)(4) and adding paragraphs (a)(4)(iii), and (a)(5) to read as follows:

§ 36.621 Study area total unseparated loop cost.

(a) ***

(4) Corporate Operations Expenses, Operating Taxes and the benefits and rent portions of operating expenses, as reported in §36.611(e) attributable to investment in C&WF Category 1.3 and COE Category 4.13. This amount is calculated by multiplying the total amount of these expenses and taxes by the ratio of the unseparated gross exchange plant investment in C&WF Category 1.3 and COE Category 4.13, as reported in §36.611(a), to the unseparated gross telecommunications plant investment, as reported in §36.611(f). Total Corporate Operations Expense, for purposes of calculating universal service support payments beginning July 1, 2001

and ending December 31, 2011, shall be limited to the lesser of § 36.621(a)(4)(i) or (ii). Total Corporate Operations Expense for purposes of calculating universal service support payments beginning January 1, 2012 shall be limited to the lesser of § 36.621(a)(4)(i) or (iii).

* * * * *

(iii) A monthly per-loop amount computed according to paragraphs (a)(4)(iii)(A), (a)(4)(iii)(B), (a)(4)(iii)(C), and (a)(4)(iii)(D) of this section. To the extent that some carriers' corporate operations expenses are disallowed pursuant to these limitations, the national average unseparated cost per loop shall be adjusted accordingly.

(A) For study areas with 6,000 or fewer total working loops the amount monthly per working loop shall be $\$42.337 - (.00328 \times \text{the number of total working loops})$, or, $\$63,000 / \text{the number of total working loops}$, whichever is greater;

(B) For study areas with more than 6,000 but fewer than 17,887 total working loops, the monthly amount per working loop shall be $\$3.007 + (117,990 / \text{the number of total working loops})$; and

(C) For study areas with 17,887 or more total working loops, the monthly amount per working loop shall be \$9.562.

(D) Beginning January 1, 2013, the monthly per-loop amount computed according to paragraphs (a)(4)(iii)(A), (a)(4)(iii)(B), and (a)(4)(iii)(C) of this section shall be adjusted each year to reflect the annual percentage change in the United States Department of Commerce's Gross Domestic Product-Chained Price Index (GDP-CPI).

(5) Study area unseparated loop cost may be limited annually pursuant to a schedule announced by the Wireline Competition Bureau.

19. Amend §36.631 by revising the introductory text of paragraphs (c) and (d) to read as follows:

§ 36.631 Expense adjustment.

(c) Beginning January 1, 1988, for study areas reporting 200,000 or fewer working loops pursuant to §36.611(h), the expense adjustment (additional interstate expense allocation) is equal to the sum of paragraphs (c)(1) through (2) of this section.

* * * * *

(d) Beginning January 1, 1998, for study areas reporting more than 200,000 working loops pursuant to §36.611(h), the expense adjustment (additional interstate expense allocation) is equal to the sum of paragraphs (d)(1) through (4) of this section.

PART 51-INTERCONNECTION

20. The authority citation for part 51 is amended to read as follows:

Authority: Sections 1–5, 7, 201–05, 207–09, 218, 220, 225–27, 251–54, 256, 271, 303(r), 332, 706 of the Telecommunication Act of 1996, 48 Stat. 1070, as amended, 1077; 47 U.S.C. 151–55, 157, 201–05, 207–09, 218, 220, 225–27, 251–54, 256, 271, 303(r), 332, 1302, 47 U.S.C. 157 *note*, unless otherwise noted.

Subpart H-Reciprocal Compensation for Transport and Termination of Telecommunications Traffic

21. Add § 51.700 to subpart H to read as follows:

§ 51.700 Purpose of this subpart.

The purpose of this subpart, as revised in 2011 by FCC 11-161 is to establish rules governing the transition of intercarrier compensation from a calling-party's-network pays system to a default bill-and-keep methodology. Following the transition, the exchange of telecommunications traffic between and among service providers will, by default, be governed by bill-and-keep arrangements.

Note to 51.700 See FCC 11-161, figure 9 (chart identifying steps in the transition).

22. Revise § 51.701 paragraphs (a) and (b) introductory text, add paragraph (b)(3) and revised paragraphs (c), (d), and (e) to read as follows:

§ 51.701 Scope of transport and termination pricing rules.

(a) Effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], compensation for telecommunications traffic exchanged between two telecommunications carriers that is interstate or intrastate exchange access, information access, or exchange services for such access, other than special access, is specified in subpart J of this part. The provisions of this subpart apply to Non-Access Reciprocal Compensation for transport and termination of Non-Access Telecommunications Traffic between LECs and other telecommunications carriers.

(b) Non-Access Telecommunications Traffic. For purposes of this subpart, Non-Access Telecommunications Traffic means:

* * * * *

(3) This definition includes telecommunications traffic exchanged between a LEC and another telecommunications carrier in Time Division Multiplexing (TDM) format that originates and/or terminates in IP format and that otherwise meets the definitions in paragraphs (b)(1) or (b)(2) of this section. Telecommunications traffic originates and/or terminates in IP format if it originates from and/or terminates to an end-user customer of a service that requires Internet protocol-compatible customer premises equipment.

(c) **Transport.** For purposes of this subpart, transport is the transmission and any necessary tandem switching of Non-Access Telecommunications Traffic subject to section 251(b)(5) of the Communications Act of 1934, as amended, 47 U.S.C. 251(b)(5), from the interconnection point between the two carriers to the terminating carrier's end office switch that directly serves the called party, or equivalent facility provided by a carrier other than an incumbent LEC.

(d) **Termination.** For purposes of this subpart, termination is the switching of Non-Access Telecommunications Traffic at the terminating carrier's end office switch, or equivalent facility, and delivery of such traffic to the called party's premises.

(e) **Non-Access Reciprocal Compensation.** For purposes of this subpart, a Non-Access Reciprocal Compensation arrangement between two carriers is either a bill-and-keep arrangement, per §51.713, or an arrangement in which each carrier receives intercarrier compensation for the transport and termination of Non-Access Telecommunications Traffic.

23. Revise § 51.703 to read as follows:

§ 51.703 Non-Access reciprocal compensation obligation of LECs.

(a) Each LEC shall establish Non-Access Reciprocal Compensation arrangements for transport and termination of Non-Access Telecommunications Traffic with any requesting telecommunications carrier.

(b) A LEC may not assess charges on any other telecommunications carrier for Non-Access Telecommunications Traffic that originates on the LEC's network.

(c) Notwithstanding any other provision of the Commission's rules, a LEC shall be entitled to assess and collect the full charges for the transport and termination of Non-Access Telecommunications Traffic, regardless of whether the local exchange carrier assessing the applicable charges itself delivers such traffic to the called party's premises or delivers the call to the called party's premises via contractual or other arrangements with an affiliated or unaffiliated provider of interconnected VoIP service, as defined in 47 U.S.C. § 153(25), or a non-interconnected VoIP service, as defined in 47 U.S.C. § 153(36), that does not itself seek to collect Non-Access Reciprocal Compensation charges for the transport and termination of that Non-Access Telecommunications Traffic. In no event may the total charges that a LEC may assess for such service to the called location exceed the applicable transport and termination rate. For purposes of this section, the facilities used by the LEC and affiliated or unaffiliated provider of interconnected VoIP service or a non-interconnected VoIP service for the transport and termination of such traffic shall be deemed an equivalent facility under §51.701.

24. Revise §51.705 to read as follows:

§ 51.705 LECs' rates for transport and termination.

(a) Notwithstanding any other provision of the Commission's rules, by default, transport and termination for Non-Access Telecommunications Traffic exchanged between a local exchange carrier and a CMRS provider within the scope of §51.701(b)(2) shall be pursuant to a bill-and-keep arrangement, as provided in §51.713.

(b) Establishment of incumbent LECs' rates for transport and termination

(1) This provision applies when, in the absence of a negotiated agreement between parties, state commissions establish Non-Access Reciprocal Compensation rates for the exchange of Non-Access Telecommunications Traffic between a local exchange carrier and a telecommunications carrier other than a CMRS provider where the incumbent local exchange carriers did not have any such rates as of [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Any rates established pursuant to this provision apply between [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER] and the date at which they are superseded by the transition specified in paragraphs (c)(2) through (c)(5) of this section.

(2) An incumbent LEC's rates for transport and termination of telecommunications traffic shall be established, at the election of the state commission, on the basis of:

(i) The forward-looking economic costs of such offerings, using a cost study pursuant to §§51.505 and 51.511; or

(ii) A bill-and-keep arrangement, as provided in §51.713.

(3) In cases where both carriers in a Non-Access Reciprocal Compensation arrangement are incumbent LECs, state commissions shall establish the rates of the smaller carrier on the basis of the larger carrier's forward-looking costs, pursuant to §51.711.

(c) Except as provided by paragraph (a) of this section, and notwithstanding any other provision of the Commission's rules, default transitional Non-Access Reciprocal Compensation rates shall be determined as follows:

(1) Effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], no telecommunications carrier may increase a Non-Access Reciprocal Compensation for transport or termination above the level in effect on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. All Bill-and-Keep Arrangements in effect on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER] shall remain in place unless both parties mutually agree to an alternative arrangement.

(2) Effective July 1, 2012, if any telecommunications carrier's Non-Access Reciprocal Compensation rates in effect on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER] or established pursuant paragraph (b) of this section subsequent to [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], exceed that carrier's interstate access rates for functionally equivalent services in effect in the same state on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], that carrier shall reduce its reciprocal compensation rate by one half of the difference between the Non-Access Reciprocal Compensation rate and the corresponding functionally equivalent interstate access rate.

(3) Effective July 1, 2013, no telecommunications carrier's Non-Access Reciprocal Compensation rates shall exceed that carrier's tariffed interstate access rate in effect in the same state on January 1 of that same year, for equivalent functionality

(4) After July 1, 2018, all Price-Cap Local Exchange Carrier's Non-Access Reciprocal Compensation rates and all non-incumbent LECs that benchmark access rates to Price Cap Carrier shall be set pursuant to Bill-and-Keep arrangements for Non-Access Reciprocal Compensation as defined in this subpart.

(5) After July 1, 2020, all Rate-of-Return Local Exchange Carrier's Non-Access Reciprocal Compensation rates and all non-incumbent LECs that benchmark access rates to Rate-of-Return Carriers shall be set pursuant to Bill-and-Keep arrangements for Non-Access Reciprocal Compensation as defined in this subpart.

§ 51.707 [Removed and Reserved]

25. Remove and reserve §51.707.

26. Revise §51.709 to read as follows:

§ 51.709 Rate structure for transport and termination.

(a) In state proceedings, where a rate for Non-Access Reciprocal Compensation does not exist of as of [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], a state commission shall establish initial rates for the transport and termination of Non-Access Telecommunications Traffic that are structured consistently with the manner that carriers incur those costs, and consistently with the principles in this section.

(b) The rate of a carrier providing transmission facilities dedicated to the transmission of non-access traffic between two carriers' networks shall recover only the costs of the proportion of that trunk capacity used by an interconnecting carrier to send non-access traffic that will terminate on the providing carrier's network. Such proportions may be measured during peak periods.

(c) For Non-Access Telecommunications Traffic exchanged between a rate-of-return regulated rural telephone company as defined in §51.5 and a CMRS provider, the rural rate-of-return incumbent local exchange carrier will be responsible for transport to the CMRS provider's interconnection point when it is located within the rural rate-of-return incumbent local exchange carrier's service area. When the CMRS provider's interconnection point is located outside the rural rate-of-return incumbent local exchange carrier's service area, the rural rate-of-return incumbent local exchange carrier's transport and provisioning obligation stops at its meet point and the CMRS provider is responsible for the remaining transport to its interconnection point. This paragraph (c) is a default provision and applicable in the absence of an existing agreement or arrangement otherwise.

27. Revise §51.711(d) paragraphs (a) introductory text, (a)(1) and (b) to read as follows:

§ 51.711 Symmetrical non-access reciprocal compensation.

(a) Rates for transport and termination of Non-Access Telecommunications Traffic shall be symmetrical, unless carriers mutually agree otherwise, except as provided in paragraphs (b) and (c) of this section.

(1) For purposes of this subpart, symmetrical rates are rates that a carrier other than an incumbent LEC assesses upon an incumbent LEC for transport and termination of Non-Access Telecommunications Traffic equal to those that the incumbent LEC assesses upon the other carrier for the same services.

* * * * *

(b) Except as provided in § 51.705, a state commission may establish asymmetrical rates for transport and termination of Non-Access Telecommunications Traffic only if the carrier other than the incumbent LEC (or the smaller of two incumbent LECs) proves to the state commission on the basis of a cost study using the forward-looking economic cost based pricing methodology described in §§51.505 and 51.511, that the forward-looking costs for a network efficiently configured and operated by the carrier other than the incumbent LEC (or the smaller of two incumbent LECs), exceed the costs incurred by the incumbent LEC (or the larger incumbent LEC), and, consequently, that such that a higher rate is justified.

* * * * *

28. Revise §51.713 to read as follows:

§ 51.713 Bill-and-keep arrangements.

Bill-and-keep arrangements are those in which carriers exchanging telecommunications traffic do not charge each other for specific transport and/or termination functions or services.

29. Revise §51.715 paragraphs (a) introductory text, (a)(1), (b) introductory text, (b)(2), and revise the first sentence in paragraph (d) to read as follows:

§ 51.715 Interim transport and termination pricing.

(a) Upon request from a telecommunications carrier without an existing interconnection arrangement with an incumbent LEC, the incumbent LEC shall provide transport and termination of Non-Access Telecommunications Traffic immediately under an interim arrangement, pending resolution of negotiation or arbitration regarding transport and termination rates and approval of such rates by a state commission under sections 251 and 252 of the Act.

(1) This requirement shall not apply when the requesting carrier has an existing interconnection arrangement that provides for the transport and termination of Non-Access Telecommunications Traffic by the incumbent LEC.

* * * * *

(b) Upon receipt of a request as described in paragraph (a) of this section, an incumbent LEC must, without unreasonable delay, establish an interim arrangement for transport and termination of Non-Access Telecommunications Traffic at symmetrical rates.

* * * * *

(2) In a state in which the state commission has not established transport and termination rates based on forward-looking economic cost studies, an incumbent LEC shall set interim transport and termination rates either at the default ceilings specified in §51.705(c) or in accordance with a bill-and-keep methodology as defined in §51.713.

* * * * *

(d) If the rates for transport and termination of Non-Access Telecommunications Traffic in an interim arrangement differ from the rates established by a state commission pursuant to §51.705, the state commission shall require carriers to make adjustments to past compensation.

* * *

§51.717 [Removed and Reserved]

30. Remove and reserve §51.717.

31. Add new subpart J to part 51 to read as follows:

Subpart J—Transitional Access Service Pricing

Sec.

51.901 Purpose and Scope of transitional access service pricing rules.

51.903 Definitions.

51.905 Implementation.

51.907 Transition of Price Cap Carrier access charges.

51.909 Transition of Rate-of-Return carrier access charges.

51.911 Reciprocal compensation rates for CLECs.

51.913 Transition for VoIP-PSTN traffic.

51.915 Revenue recovery for Price Cap carriers

51.917 Revenue recovery for Rate of Return carriers

51.919 Reporting and Monitoring

§ 51.901 Purpose and scope of transitional access service pricing rules.

(a) The purpose of this section is to establish rules governing the transition of intercarrier compensation from a calling-party's-network pays system to a default bill-and-keep methodology. Following the transition, the exchange of traffic between and among service providers will, by default, be governed by bill-and-keep arrangements.

(b) Effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], the provisions of this subpart apply to reciprocal compensation for telecommunications traffic exchanged between telecommunications providers that is interstate or intrastate exchange access, information access, or exchange services for such access, other than special access.

Note to § 51.901 See FCC 11-161, figure 9 (chart identifying steps in the transition).

§ 51.903 Definitions.

(a) Competitive Local Exchange Carrier. A Competitive Local Exchange Carrier is any local exchange carrier, as defined in §51.5, that is not an incumbent local exchange carrier .

(b) Composite Terminating End Office Access Rate. Composite Terminating End Office Access Rate means terminating End Office Access Service revenue, calculated using demand for a given time period, divided by end office switching minutes for the same time period.

(c) Dedicated Transport Access Service. Dedicated Transport Access Service means originating and terminating transport on circuits dedicated to the use of a single carrier or other customer provided by an incumbent local exchange carrier or any functional equivalent of the incumbent local exchange carrier access service provided by a non-incumbent local exchange carrier. Dedicated Transport Access Service rate elements for an incumbent local exchange carrier include the entrance facility rate elements specified in §69.110 of this chapter, the dedicated transport rate elements specified in §69.111 of this chapter, the direct-trunked transport rate elements specified in §69.112 of this chapter, and the intrastate rate elements for functionally equivalent access services. Dedicated Transport Access Service rate elements for a non-incumbent local exchange carrier include any functionally equivalent access services.

(d) End Office Access Service. End Office Access Service means: (1) The switching of access traffic at the carrier's end office switch and the delivery to or from of such traffic to the called party's premises;

(2) The routing of interexchange telecommunications traffic to or from the called party's premises, either directly or via contractual or other arrangements with an affiliated or unaffiliated entity, regardless of the specific functions provided or facilities used; or

(3) Any functional equivalent of the incumbent local exchange carrier access service provided by a non-incumbent local exchange carrier. End Office Access Service rate elements for an incumbent local exchange carrier include the local switching rate elements specified in §69.106 of this chapter, the carrier common line rate elements specified in §69.154 of this chapter, and the intrastate rate elements for functionally equivalent access services. End Office Access Service rate elements for an incumbent local exchange carrier also include any rate elements assessed on local switching access minutes, including the

information surcharge and residual rate elements. End office Access Service rate elements for a non-incumbent local exchange carrier include any functionally equivalent access service.

Note to paragraph (d): For incumbent local exchange carriers, residual rate elements may include, for example, state Transport Interconnection Charges, Residual Interconnection Charges, and PICCs. For non-incumbent local exchange carriers, residual rate elements may include any functionally equivalent access service.

(e) Fiscal Year 2011. Fiscal Year 2011 means October 1, 2010 through September 30, 2011.

(f) Price Cap Carrier. Price Cap Carrier has the same meaning as that term is defined in §61.3(aa) of this chapter.

(g) Rate-of-Return Carrier. A Rate-of-Return Carrier is any incumbent local exchange carrier not subject to price cap regulation as that term is defined in §61.3(aa) of this chapter, but only with respect to the territory in which it operates as an incumbent local exchange carrier.

(h) Access Reciprocal Compensation. For the purposes of this subpart, Access Reciprocal Compensation means telecommunications traffic exchanged between telecommunications service providers that is interstate or intrastate exchange access, information access, or exchange services for such access, other than special access.

(i) Tandem-Switched Transport Access Service. Tandem-Switched Transport Access Service means:

(1) Tandem switching and common transport between the tandem switch and end office; or

(2) Any functional equivalent of the incumbent local exchange carrier access service provided by a non-incumbent local exchange carrier via other facilities. Tandem-Switched Transport rate elements for an incumbent local exchange carrier include the rate elements specified in §69.111 of this chapter, except for the dedicated transport rate elements specified in that section, and intrastate rate elements for functionally equivalent service. Tandem Switched Transport Access Service rate elements for a non-incumbent local exchange carrier include any functionally equivalent access service.

(j) Transitional Intrastate Access Service. A Transitional Intrastate Access Service means terminating End Office Access Service that was subject to intrastate access rates as of December 31, 2011; terminating Tandem-Switched Transport Access Service that was subject to intrastate access rates as of December 31, 2011; and originating and terminating Dedicated Transport Access Service that was subject to intrastate access rates as of December 31, 2011.

§ 51.905 Implementation.

(a) The rates set forth in this section are default rates. Notwithstanding any other provision of the Commission's rules, telecommunications carriers may agree to rates different from the default rates.

(b) LECs who are otherwise required to file tariffs are required to tariff rates no higher than the default transitional rates specified by this subpart.

(1) With respect to interstate switched access services governed by this subpart, LECs shall tariff rates for those services in their federal tariffs. Except as expressly superseded below, LECs shall follow the procedures specified in part 61 of this chapter when filing such tariffs.

(2) With respect to Transitional Intrastate Access Services governed by this subpart, LECs shall follow the procedures specified by relevant state law when filing such tariffs, price lists or other instrument (referred to collectively as "tariffs").

(c) Nothing in this section shall be construed to require a carrier to file or maintain a tariff or to amend an existing tariff if it is not otherwise required to do so under applicable law.

§ 51.907 Transition of price cap carrier access charges.

(a) Notwithstanding any other provision of the Commission's rules, on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], a Price Cap Carrier shall cap the rates for all interstate and intrastate rate elements for services contained in the definitions of Interstate End Office Access Services, Tandem Switched Transport Access Services, and Dedicated Transport Access Services. In addition, a Price Cap Carrier shall also cap the rates for any interstate and intrastate rate elements in the "traffic sensitive basket" and the "trunking basket" as described in 47 CFR 61.42(d)(2) and (3) to the extent that such rate elements are not contained in the definitions of Interstate End Office Access Services, Tandem Switched Transport Access Services, and Dedicated Transport Access Services. Carriers will remove these services from price cap regulation in their July 1, 2012 annual tariff filing.

(b) Step 1. Effective July 1, 2012, notwithstanding any other provision of the Commission's rules:

(1) Each Price Cap Carrier shall file tariffs, in accordance with §51.905(b)(2), with the appropriate state regulatory authority, that set forth the rates applicable to Transitional Intrastate Access Service in each state in which it provides Transitional Intrastate Access Service.

(2) Each Price Cap Carrier shall establish the rates for Transitional Intrastate Access Service using the following methodology:

(i) Calculate total revenue from Transitional Intrastate Access Service at the carrier's interstate access rates in effect on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], using Fiscal Year 2011 intrastate switched access demand for each rate element.

(ii) Calculate total revenue from Transitional Intrastate Access Service at the carrier's intrastate access rates in effect on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], using Fiscal Year 2011 intrastate switched access demand for each rate element.

(iii) Calculate the Step 1 Access Revenue Reduction. The Step 1 Access Revenue Reduction is equal to one-half of the difference between the amount calculated in paragraph (b)(2)(i) of this section and the amount calculated in paragraph (b)(2)(ii) of this section.

(iv) A Price Cap Carrier may elect to establish rates for Transitional Intrastate Access Service using its intrastate access rate structure. Carriers using this option shall establish rates for Transitional Intrastate Access Service such that Transitional Intrastate Access Service revenue at the proposed rates is no greater than Transitional Intrastate Access Service revenue at the intrastate rates in effect as of [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER] less the Step 1 Access Revenue Reduction, using Fiscal Year 2011 demand. Carriers electing to establish rates

for Transitional Intrastate Access Service in this manner shall notify the appropriate state regulatory authority of their election in the filing required by §51.907(b)(1).

(v) In the alternative, a Price Cap Carrier may elect to apply its interstate access rate structure and interstate rates to Transitional Intrastate Access Service. In addition to applicable interstate access rates, the carrier may, between July 1, 2012 and July 1, 2013, assess a transitional per-minute charge on Transitional Intrastate Access Service end office switching minutes (previously billed as intrastate access). The transitional per-minute charge shall be no greater than the Step 1 Access Revenue Reduction divided by Fiscal Year 2011 Transitional Intrastate Access Service end office switching minutes. Carriers electing to establish rates for Transitional Intrastate Access Service in this manner shall notify the appropriate state regulatory authority of their election in the filing required by §51.907(b)(1).

(vi) Nothing in this section obligates or allows a Price Cap Carrier that has intrastate rates lower than its functionally equivalent interstate rates to make any intrastate tariff filing or intrastate tariff revisions to increase such rates.

(c) Step 2. Effective July 1, 2013, notwithstanding any other provision of the Commission's rules:

(1) Transitional Intrastate Access Service rates shall be no higher than the Price Cap Carrier's interstate access rates. Once the Price Cap Carrier's Transitional Intrastate Access Service rates are equal to its functionally equivalent interstate access rates, they shall be subject to the same rate structure and all subsequent rate and rate structure modifications. Nothing in this section obligates or allows a Price Cap Carrier that has intrastate rates lower than its functionally equivalent interstate rates to make any intrastate tariff filing or intrastate tariff revisions to increase such rates.

(2) In cases where a Price Cap Carrier does not have intrastate rates that permit it to determine composite intrastate End Office Access Service rates, the carrier shall establish End Office Access Service rates such that the ratio between its composite intrastate End Office Access Service revenues and its total intrastate switched access revenues may not exceed the ratio between its composite interstate End Office Access Service revenues and its total interstate switched access revenues.

(3) Nothing in this section obligates or allows a Price Cap Carrier that has intrastate rates lower than its functionally equivalent interstate rates to make any intrastate tariff filing or intrastate tariff revisions to increase such rates.

(d) Step 3. Effective July 1, 2014, notwithstanding any other provision of the Commission's rules:

(1) A Price Cap Carrier shall establish separate originating and terminating rate elements for all per-minute components within interstate and intrastate End Office Access Service. For fixed charges, the Price Cap Carrier shall divide the rate between originating and terminating rate elements based on relative originating and terminating end office switching minutes. If sufficient originating and terminating end office switching minute data is not available, the carrier shall divide such charges equally between originating and terminating elements.

(2) Each Price Cap Carrier shall establish rates for interstate or intrastate terminating End Office Access Service using the following methodology:

(i) Each Price Cap Carrier shall calculate the 2011 Baseline Composite Terminating End Office Access Rate. The 2011 Baseline Composite Terminating End Office Access Rate means the Composite Terminating End Office Access Rate calculated using Fiscal Year 2011 demand and the End Office Access Service rates at the levels in effect on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

(ii) Each Price Cap Carrier shall calculate its 2014 Target Composite Terminating End Office Access Rate. The 2014 Target Composite Terminating End Office Access Rate means \$0.0007 per minute plus two-thirds of any difference between the 2011 Baseline Composite Terminating End Office Access Rate and \$0.0007 per minute.

(iii) Effective July 1, 2014, no Price Cap Carrier's interstate or intrastate Composite Terminating End Office Access Rate shall exceed its 2014 Target Composite Terminating End Office Access Rate. In the alternative, any Price Cap Carrier may elect to implement a single per minute rate element for terminating End Office Access Service no greater than the 2014 Target Composite Terminating End Office Access Rate.

(iv) Nothing in this section obligates or allows a Price Cap Carrier that has intrastate rates lower than its functionally equivalent interstate rates to make any intrastate tariff filing or intrastate tariff revisions increasing such rates.

(e) Step 4. Effective July 1, 2015, notwithstanding any other provision of the Commission's rules:

(1) Each Price Cap Carrier shall establish interstate or intrastate rates for terminating End Office Access Service using the following methodology:

(i) Each Price Cap Carrier shall calculate its 2015 Target Composite Terminating End Office Access Rate. The 2015 Target Composite Terminating End Office Access Rate means \$0.0007 per minute plus one-third of any difference between the 2011 Composite Terminating End Office Access Rate and \$0.0007 per minute.

(ii) Effective July 1, 2015, no Price Cap Carrier's interstate or intrastate Composite Terminating End Office Access Rate shall exceed its 2015 Target Composite Terminating End Office Access Rate. In the alternative, any Price Cap Carrier may elect to implement a single per minute rate element for terminating End Office Access Service no greater than the 2015 Target Composite Terminating End Office Access Rate.

(2) Nothing in this section obligates or allows a Price Cap Carrier that has intrastate rates lower than its functionally equivalent interstate rates to make any intrastate tariff filing or intrastate tariff revisions raising such rates.

(f) Step 5. Effective July 1, 2016, notwithstanding any other provision of the Commission's rules, each Price Cap Carrier shall establish interstate and intrastate per minute terminating End Office Access Service rates such that its Composite Terminating End Office Access Service rate does not exceed \$0.0007 per minute. Nothing in this section obligates or allows a Price Cap Carrier that has intrastate rates lower than its functionally equivalent interstate rates to make any intrastate tariff filing or intrastate tariff revisions raising such rates.

(g) Step 6. Effective July 1, 2017, notwithstanding any other provision of the Commission's rules:

- (1) Each Price Cap Carrier shall, in accordance with a bill-and-keep methodology, refile its interstate access tariffs and any state tariffs, in accordance with § 51.905(b)(2), removing any intercarrier charges for terminating End Office Access Service.
- (2) Each Price Cap Carrier shall establish, for interstate and intrastate terminating traffic traversing a tandem switch that the terminating carrier or its affiliates owns, Tandem-Switched Transport Access Service rates no greater than \$0.0007 per minute.
- (3) Nothing in this section obligates or allows a Price Cap Carrier that has intrastate rates lower than its functionally equivalent interstate rates to make any intrastate tariff filing or intrastate tariff revisions raising such rates.

(h) Step 7. Effective July 1, 2018, notwithstanding any other provision of the Commission's rules, each Price Cap carrier shall, in accordance with bill-and-keep, as defined in §51.713, revise and refile its interstate switched access tariffs and any state tariffs to remove any intercarrier charges applicable to terminating tandem-switched access service traversing a tandem switch that the terminating carrier or its affiliate owns.

§ 51.909 Transition of rate-of-return carrier access charges.

(a) Notwithstanding any other provision of the Commission's rules, on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], a Rate-of-Return Carrier shall:

- (1) Cap the rates for all rate elements for services contained in the definitions of End Office Access Service, Tandem Switched Transport Access Service, and Dedicated Transport Access Service, as well as all other interstate switched access rate elements, in its interstate switched access tariffs at the rate that was in effect on the [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]; and
- (2) Cap, in accordance with §51.505(b)(2), the rates for rate all elements in its intrastate switched access tariffs associated with the provision of terminating End Office Access Service and terminating Tandem-Switched Transport Access Service at the rates that were in effect on the [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER],
 - (i.) Using the terminating rates if specifically identified; or
 - (ii.) Using the rate for the applicable rate element if the tariff does not distinguish between originating and terminating.
- (3) Nothing in this section obligates or allows a Rate-of-Return Carrier that has intrastate rates lower than its functionally equivalent interstate rates to make any intrastate tariff filing or intrastate tariff revisions raising such rates.

(b) Step 1. Effective July 1, 2012, notwithstanding any other provision of the Commission's rules:

(1) Each Rate-of-Return Carrier shall file intrastate access tariff provisions, in accordance with §51.505(b)(2), that set forth the rates applicable to Transitional Intrastate Access Service in each state in which it provides Transitional Intrastate Access Service.

(2) Each Rate-of-Return Carrier shall establish the rates for Transitional Intrastate Access Service using the following methodology:

(i) Calculate total revenue from Transitional Intrastate Access Service at the carrier's interstate access rates in effect on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], using Fiscal Year 2011 intrastate switched access demand for each rate element.

(ii) Calculate total revenue from Transitional Intrastate Access Service at the carrier's intrastate access rates in effect on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], using Fiscal Year 2011 intrastate switched access demand for each rate element.

(iii) Calculate the Step 1 Access Revenue Reduction. The Step 1 Access Revenue Reduction is equal to one-half of the difference between the amount calculated in (b)(2)(i) of this section and the amount calculated in (b)(2)(ii) of this section.

(iv) A Rate-of-Return Carrier may elect to establish rates for Transitional Intrastate Access Service using its intrastate access rate structure. Carriers using this option shall establish rates for Transitional Intrastate Access Service such that Transitional Intrastate Access Service revenue at the proposed rates is no greater than Transitional Intrastate Access Service revenue at the intrastate rates in effect as of [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER] less the Step 1 Access Revenue Reduction, using Fiscal Year 2011 intrastate switched access demand. Carriers electing to establish rates for Transitional Intrastate Access Service in this manner shall notify the appropriate state regulatory authority of their election in the filing required by §51.907(b)(1).

(v) In the alternative, a Rate-of-Return Carrier may elect to apply its interstate access rate structure and interstate rates to Transitional Intrastate Access Service. In addition to applicable interstate access rates, the carrier may, between July 1, 2012 and July 1, 2013, assess a transitional per-minute charge on Transitional Intrastate Access Service end office switching minutes (previously billed as intrastate access). The transitional per-minute charge shall be no greater than the Step 1 Access Revenue Reduction divided by Fiscal Year 2011 Transitional Intrastate Access Service end office switching minutes. Carriers electing to establish rates for Transitional Intrastate Access Service in this manner shall notify the appropriate state regulatory authority of their election in the filing required by §51.907(b)(1).

(3) Nothing in this section obligates or allows a Rate-of-Return carrier that has intrastate rates lower than its functionally equivalent interstate rates to make any intrastate tariff filing or intrastate tariff revisions raising such rates.

(c) Step 2. Effective July 1, 2013, notwithstanding any other provision of the Commission's rules, Transitional Intrastate Access Service rates shall be no higher than the Rate-of-Return Carrier's interstate Terminating End Office Access Service and Terminating Tandem-Switched Transport Access Service rates and subject to the same rate structure and all subsequent rate and rate structure modifications.

(d) Step 3. Effective July 1, 2014, notwithstanding any other provision of the Commission's rules:

(1) Notwithstanding the rate structure rules set forth in §69.106 of this chapter or anything else in the Commission's rules, a Rate-of-Return Carrier shall establish separate originating and terminating interstate and intrastate rate elements for all components within interstate End Office Access Service. For fixed charges, the Rate-of-Return Carrier shall divide the amount based on relative originating and terminating end office switching minutes. If sufficient originating and terminating end office switching minute data is not available, the carrier shall divide such charges equally between originating and terminating elements.

(2) Nothing in this Step shall affect Tandem-Switched Transport Access Service or Dedicated Transport Access Service.

(3) Each Rate-of-Return Carrier shall establish rates for interstate and intrastate terminating End Office Access Service using the following methodology:

(i) Each Rate-of-Return Carrier shall calculate the 2011 Baseline Composite Terminating End Office Access Rate. The 2011 Baseline Composite Terminating End Office Access Rate means the Composite Terminating End Office Access Rate calculated using Fiscal Year 2011 interstate demand and the interstate End Office Access Service rates at the levels in effect on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

(ii) Each Rate-of-Return Carrier shall calculate its 2014 interstate Target Composite Terminating End Office Access Rate. The 2014 interstate Target Composite Terminating End Office Access Rate means \$0.005 per minute plus two-thirds of any difference between the 2011 Baseline Composite Terminating End Office Access Rate, and \$0.005 per minute.

(iii) Effective July 1, 2014, no Rate-of-Return Carrier's interstate or intrastate Composite Terminating End Office Access Rate shall exceed its 2014 interstate Target Composite Terminating End Office Access Rate. In the alternative, any Rate-of-Return Carrier may elect to implement a single per minute rate element for terminating End Office Access Service no greater than the 2014 interstate Target Composite Terminating End Office Access Rate.

(4) Nothing in this section obligates or allows a Rate-of-Return Carrier that has intrastate rates lower than its functionally equivalent interstate rates to make any intrastate tariff filing or intrastate tariff revisions raising such rates.

(e) Step 4. Effective July 1, 2015, notwithstanding any other provision of the Commission's rules:

(1) Each Rate-of-Return Carrier shall establish rates for interstate and intrastate terminating End Office Access Service using the following methodology:

(i) Each Rate-of-Return Carrier shall calculate its 2015 interstate Target Composite Terminating End Office Access Rate. The 2015 interstate Target Composite Terminating End Office Access Rate means \$0.005 per minute plus one-third of any difference between the 2011 Baseline Composite Terminating End Office Access Rate and \$0.005 per minute.

(ii) Effective July 1, 2015, no Rate-of-Return Carrier's interstate or intrastate Composite Terminating End Office Access Rate shall exceed its 2015 Target Composite Terminating End Office Access Rate. In the alternative, any Rate-of-Return Carrier may elect to implement a single per minute rate element for terminating End Office Access Service no greater than the 2015 interstate Target Composite Terminating End Office Access Rate.

(2) Reserved.

(f) Step 5. Effective July 1, 2016, notwithstanding any other provision of the Commission's rules, each Rate-of-Return Carrier shall establish interstate and intrastate per minute terminating End Office Access Service rates such that its Composite Terminating End Office Access Service rate does not exceed \$0.005 per minute. Nothing in this section obligates or allows a Rate-of-Return Carrier that has intrastate rates lower than its functionally equivalent interstate rates to make any intrastate tariff filing or intrastate tariff revisions raising such rates.

(g) Step 6. Effective July 1, 2017, notwithstanding any other provision of the Commission's rules:

(1) Each Rate-of-Return Carrier shall establish rates for terminating End Office Access Service using the following methodology:

(i) Each Rate-of-Return Carrier shall calculate its 2017 interstate Target Composite Terminating End Office Access Rate. The 2017 interstate Target Composite Terminating End Office Access Rate means \$0.0007 per minute plus two-thirds of any difference between that carrier's Terminating End Office Access Service Rate as of July 1, 2016 and \$0.0007 per minute.

(ii) Effective July 1, 2017, no Rate-of-Return Carrier's interstate or intrastate Composite Terminating End Office Access Rate shall exceed its 2017 interstate Target Composite Terminating End Office Access Rate. In the alternative, any Rate-of-Return Carrier may elect to implement a single per minute rate element for terminating End Office Access Service no greater than the 2017 interstate Target Composite Terminating End Office Access Rate.

(2) Reserved.

(h) Step 7. Effective July 1, 2018, notwithstanding any other provision of the Commission's rules:

(1) Each Rate-of-Return Carrier shall establish rates for terminating End Office Access Service using the following methodology:

(i) Each Rate-of-Return Carrier shall calculate its 2018 interstate Target Composite Terminating End Office Access Rate. The 2018 interstate Target Composite Terminating End Office Access Rate means \$0.0007 per minute plus

one-third of any difference between that carrier's Terminating End Office Access Service Rate as of July 1, 2016 and \$0.0007 per minute.

(ii) Effective July 1, 2018, no Rate-of-Return Carrier's interstate or intrastate Composite Terminating End Office Access Rate shall exceed its 2018 interstate Target Composite Terminating End Office Access Rate. In the alternative, any Rate-of-Return Carrier may elect to implement a single per minute rate element for terminating End Office Access Service no greater than the 2018 interstate Target Composite Terminating End Office Access Rate.

(2) Reserved.

(i) Step 8. Effective July 1, 2019, notwithstanding any other provision of the Commission's rules, each Rate-of-Return Carrier shall establish interstate and intrastate rates for terminating End Office Access Service that do not exceed \$0.0007 per minute.

(j) Step 9. Effective July 1, 2020, notwithstanding any other provision of the Commission's rules, each Rate-of-Return Carrier shall, in accordance with a bill-and-keep methodology, revise and refile its federal access tariffs and any state tariffs to remove any intercarrier charges for terminating End Office Access Service.

(k) As set forth in FCC 11-161, states will facilitate implementation of changes to intrastate access rates to ensure compliance with the Order. Nothing in this section shall alter the authority of a state to monitor and oversee filing of intrastate tariffs.

§51.911 Access reciprocal compensation rates for competitive LECs.

(a) Caps on Access Reciprocal Compensation and switched access rates. Notwithstanding any other provision of the Commission's rules:

(1) In the case of Competitive LECs operating in an area served by a Price Cap Carrier, no such Competitive LEC may increase the rate for any originating or terminating intrastate switched access service above the rate for such service in effect on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

(2) In the case of Competitive LEC operating in an area served by an incumbent local exchange carrier that is a Rate-of-Return Carrier or Competitive LECs that are subject to the rural exemption in §61.26(e) of this chapter, no such Competitive LEC may increase the rate for any originating or terminating intrastate switched access service above the rate for such service in effect on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], with the exception of intrastate originating access service. For such Competitive LECs, intrastate originating access service subject to this subpart shall remain subject to the same state rate regulation in effect December 31, 2011, as may be modified by the state thereafter.

(b) Effective July 1, 2012, notwithstanding any other provision of the Commission's rules, each Competitive LEC that has tariffs on file with state regulatory authorities shall file intrastate access tariff provisions, in accordance with §51.505(b)(2), that set forth the rates applicable to Transitional Intrastate Access Service in each state in which it provides Transitional Intrastate Access Service. Each

Competitive Local Exchange Carrier shall establish the rates for Transitional Intrastate Access Service using the following methodology:

- (1) Calculate total revenue from Transitional Intrastate Access Service at the carrier's interstate access rates in effect on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], using Fiscal Year 2011 intrastate switched access demand for each rate element.
- (2) Calculate total revenue from Transitional Intrastate Access Service at the carrier's intrastate access rates in effect on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], using Fiscal Year 2011 intrastate switched access demand for each rate element.
- (3) Calculate the Step 1 Access Revenue Reduction. The Step 1 Access Revenue Reduction is equal to one-half of the difference between the amount calculated in (b) (1) of this section and the amount calculated in (b)(2) of this section.
- (4) A Competitive Local Exchange Carrier may elect to establish rates for Transitional Intrastate Access Service using its intrastate access rate structure. Carriers using this option shall establish rates for Transitional Intrastate Access Service such that Transitional Intrastate Access Service revenue at the proposed rates is no greater than Transitional Intrastate Access Service revenue at the intrastate rates in effect as of [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER] less the Step 1 Access Revenue Reduction, using Fiscal year 2011 intrastate switched access demand.
- (5) In the alternative, a Competitive Local Exchange Carrier may elect to apply its interstate access rate structure and interstate rates to Transitional Intrastate Access Service. In addition to applicable interstate access rates, the carrier may assess a transitional per-minute charge on Transitional Intrastate Access Service end office switching minutes (previously billed as intrastate access). The transitional charge shall be no greater than the Step 1 Access Revenue Reduction divided by Fiscal year 2011 intrastate switched access demand
- (6) Nothing in this subsection obligates or allows a Competitive LEC that has intrastate rates lower than its functionally equivalent interstate rates to make any intrastate tariff filing or intrastate tariff revisions raising such rates.

(c) Effective July 1, 2013, notwithstanding any other provision of the Commission's rules, all Competitive Local Exchange Carrier Access Reciprocal Compensation rates for switched exchange access services subject to this subpart shall be no higher than the Access Reciprocal Compensation rates charged by the competing incumbent local exchange carrier, in accordance with the same procedures specified in §61.26 of this chapter.

§ 51.913 Transition for VoIP-PSTN traffic.

(a) Access Reciprocal Compensation subject to this subpart exchanged between a local exchange carrier and another telecommunications carrier in Time Division Multiplexing (TDM) format that originates and/or terminates in IP format shall be subject to a rate equal to the relevant interstate access charges specified by this subpart. Telecommunications traffic originates and/or terminates in IP format if it originates from and/or terminates to an end-user customer of a service that requires Internet protocol-compatible customer premises equipment.

(b) Notwithstanding any other provision of the Commission's rules, a local exchange carrier shall be entitled to assess and collect the full Access Reciprocal Compensation charges prescribed by this subpart that are set forth in a local exchange carrier's interstate or intrastate tariff for the access services defined in § 51.903 regardless of whether the local exchange carrier itself delivers such traffic to the called party's premises or delivers the call to the called party's premises via contractual or other arrangements with an affiliated or unaffiliated provider of interconnected VoIP service, as defined in 47 U.S.C. 153(25), or a non-interconnected VoIP service, as defined in 47 U.S.C. 153(36), that does not itself seek to collect Access Reciprocal Compensation charges prescribed by this subpart for that traffic. This rule does not permit a local exchange carrier to charge for functions not performed by the local exchange carrier itself or the affiliated or unaffiliated provider of interconnected VoIP service or non-interconnected VoIP service. For purposes of this provision, functions provided by a LEC as part of transmitting telecommunications between designated points using, in whole or in part, technology other than TDM transmission in a manner that is comparable to a service offered by a local exchange carrier constitutes the functional equivalent of the incumbent local exchange carrier access service.

§ 51.915 Recovery Mechanism For Price Cap Carriers.

- (a) Scope. This section sets forth the extent to which Price Cap Carriers may recover certain revenues, through the recovery mechanism outlined below, to implement reforms adopted in FCC 11-161 and as required by § 20.11(b) of this chapter, and §§51.705 and 51.907.
- (b) Definitions. As used in this section and § 51.917, the following terms mean:
- (1) CALLS Study Area. A CALLS Study Area means a Price Cap Carrier study area that participated in the CALLS plan at its inception. See Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers, Low-Volume Long-Distance Users, Federal-State Joint Board on Universal Service, Sixth Report and Order in CC Docket Nos. 96-262 and 94-1, Report and Order in CC Docket No. 99-249, Eleventh Report and Order in CC Docket No. 96-45, 15 FCC Rcd 12962 (2000).
 - (2) CALLS Study Area Base Factor. The CALLS Study Area Base Factor is equal to ninety (90) percent.
 - (3) CMRS Net Reciprocal Compensation Revenues. CMRS Net Reciprocal Compensation Revenues means the reduction in net reciprocal compensation revenues required by § 20.11 of this chapter associated with CMRS traffic as described in § 51.701(b)(2), which is equal to its Fiscal Year 2011 net reciprocal compensation revenues from CMRS carriers.
 - (4) Expected Revenues for Access Recovery Charges. Expected Revenues for Access Recovery Charges are calculated using the tariffed Access Recovery Charge rate for each class of service and the forecast demand for each class of service.
 - (5) Initial Composite Terminating End Office Access Rate. Initial Composite Terminating End Office Access Rate means Fiscal Year 2011 terminating interstate End Office Access

Service revenue divided by Fiscal Year 2011 terminating interstate end office switching minutes.

- (6) Lifeline Customer. A Lifeline Customer is a residential lifeline subscriber as defined by § 54.400(a) of this chapter that does not pay a Residential and/or Single-Line Business End User Common Line Charge.
- (7) Net Reciprocal Compensation. Net Reciprocal Compensation means the difference between a carrier's reciprocal compensation revenues from non-access traffic less its reciprocal compensation payments for non-access traffic during a stated period of time. For purposes of the calculations made under §§ 51.915 and 51.917, the term does not include reciprocal compensation revenues for non-access traffic exchanged between Local Exchange Carriers and CMRS providers; recovery for such traffic is addressed separately in these sections.
- (8) Non-CALLS Study Area. Non-CALLS Study Area means a Price Cap Carrier study area that did not participate in the CALLS plan at its inception.
- (9) Non-CALLS Study Area Base Factor. The Non-CALLS Study Area Base Factor is equal to one hundred (100) percent for five (5) years beginning July 1, 2012. Beginning July 1, 2017, the Non-CALLS Price Cap Carrier Base Factor will be equal to ninety (90) percent.
- (10) Price Cap Carrier Traffic Demand Factor. The Price Cap Carrier Traffic Demand Factor, as used in calculating eligible recovery, is equal to ninety (90) percent for the one-year period beginning July 1, 2012. It is reduced by ten (10) percent of its previous value in each subsequent annual tariff filing.
- (11) Rate Ceiling Component Charges. The Rate Ceiling Component Charges consists of the federal end user common line charge and the Access Recovery Charge; the flat rate for residential local service (sometimes know as the "1FR" or "R1" rate), mandatory extended area service charges, and state subscriber line charges; per-line state high cost and/or state access replacement universal service contributions, state E911 charges, and state TRS charges.
- (12) Residential Rate Ceiling. The Residential Rate Ceiling, which consists of the total of the Rate Ceiling Component Charges, is set at \$30 per month. The Residential Rate Ceiling will be the higher of the rate in effect on January 1, 2012, or the rate in effect on January 1 in any subsequent year.
- (13) True-up Revenues for Access Recovery Charge. True-up revenues for Access Recovery Charge are equal to Expected Access Recovery Charge Revenues minus ((projected demand minus actual realized demand for Access Recovery Charges) times the tariffed Access Recovery Charge). This calculation shall be made separately for each class of service and shall be adjusted to reflect any changes in tariffed rates for the Access Recovery Charge. Realized demand is the demand for which payment has been received, or has been made, as appropriate, by the time the true-up is made.

(c) 2011 Price Cap Carrier Base Period Revenue. 2011 Price Cap Carrier Base Period Revenue is equal to the sum of the following three components:

- (1) Terminating interstate end office switched access revenues and interstate Tandem-Switched Transport Access Service revenues for Fiscal Year 2011 received by March 31, 2012;
- (2) Fiscal Year 2011 revenues from Transitional Intrastate Access Service received by March 31, 2012; and
- (3) Fiscal Year 2011 reciprocal compensation revenues received by March 31, 2012, less fiscal year 2011 reciprocal compensation payments made by March 31, 2012.

(d) Eligible recovery for Price Cap Carriers.

- (1) Notwithstanding any other provision of the Commission's rules, a Price Cap Carrier may recover the amounts specified in this paragraph through the mechanisms described in paragraphs (e) and (f) of this section.

(i) Beginning July 1, 2012, a Price Cap Carrier's eligible recovery will be equal to the CALLS Study Area Base Factor and/or the Non-CALLS Study Area Base Factor, as applicable, multiplied by the sum of the following three components:

- A. The amount of the reduction in Transitional Intrastate Access Service revenues determined pursuant to § 51.907(b)(2) multiplied by the Price Cap Carrier Traffic Demand Factor;
- B. CMRS Net Reciprocal Compensation Revenues multiplied by the Price Cap Carrier Traffic Demand Factor; and
- C. A Price Cap Carrier's reductions in Fiscal Year 2011 net reciprocal compensation revenues resulting from rate reductions required by § 51.705, other than those associated with CMRS traffic as described in § 51.701(b)(2), which may be calculated in one of the following ways:
 1. Calculate the reduction in Fiscal Year 2011 net reciprocal compensation revenue as a result of rate reductions required by § 51.705 using Fiscal Year 2011 reciprocal compensation demand, and then multiply by the Price Cap Carrier Traffic Demand Factor;
 2. By using a composite reciprocal compensation rate as follows:
 - (i) Establish a composite reciprocal compensation rate for its Fiscal Year 2011 reciprocal compensation receipts and its Fiscal Year 2011 reciprocal compensation payments by dividing its Fiscal Year 2011 reciprocal compensation receipts and payments by their respective Fiscal Year 2011 demand;